

1964

## CONGRESSIONAL RECORD — SENATE

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The Insurance Agents case held that the Board had no authority to act at large in equalizing disparities of bargaining power between employer and union, and no right to police for the parties their choice of economic tactics. By attempting to do so, the Board, in the words of the Court, was moving into an area of regulation not committed to it by Congress. Now, however, in two 1961 decisions, *Erie Resistor Corp.*<sup>35</sup> and *The Crestline Co.*,<sup>36</sup> the Board displays its disagreement with the policy enunciated in the Supreme Court's Insurance Agents decision. In the *Erie* case it denied the employer's right to grant so-called superseniority to strike replacements, because of the economic pressure on the union to end the strike. In the *Crestline* case the Board said an employer could not change employees' benefits during collective-bargaining negotiations, even after the prior contract had expired. It held that such changes might put economic pressure on the union and the employees to accept the employer's proposals.

The record is clear, therefore, that the Board is unwilling to accept the fact that true bargaining must be a two-way street, and that both sides should be free to use lawful economic pressures. In view of all these facts, it is obvious that legislative corrective action is postponed only at great peril to employees, to the public, and to American collective-bargaining processes. The NLRB, month by month and year by year, has put both the public and the Congress on notice that it is naive and futile to expect unbiased Board decisions. This conclusion prompted the introduction of H.R. 8246. As pointed out above, the basic thrust of this bill is the requirement that all unfair labor practice cases be tried before U.S. district courts.

In answer to the charge that this would impose an unreasonable burden on the courts, it is noteworthy that approximately 40 percent of all charges filed with the Board are withdrawn, that about 30 percent are dismissed, about 20 percent are settled, and only less than 10 percent reach the trial stage. The argument can be made, moreover, that if the parties were unable to use the NLRB for maneuvering advantages, an even greater number of cases would be settled.

It should also be pointed out that the bill makes Federal Rules of Civil Procedure applicable, and provides for hearings before special masters at the discretion of the court. Additionally, the bill does not rewrite any unfair labor practice sections of existing labor statutes, but rather is directed only at the manner in which these cases will be adjudicated.<sup>37</sup>

Summing up the record since 1935, it shows that Congress has been patient, tolerant, and helpful to the National Labor Relations Board to no avail. The record further shows that the Board, by its decisions, respects neither the letter of the law nor the intent of Congress. To put it bluntly and succinctly, it is the firm conviction of many that the NLRB has passed the point of no return.

#### ARBITRARY AND CAPRICIOUS TREATMENT OF STATE DEPARTMENT EMPLOYEES

Mr. THURMOND. Mr. President, while the Senate professes to concern it-

self with civil rights legislation, the civil rights of certain State Department employees are continually subjected to arbitrary and capricious treatment. I refer, of course, to the case of Mr. Otto F. Otepka and to the additional persons, including Mr. Harry M. Hite and Mr. John R. Norpel, Jr., who have now apparently been subjected to the same type of discriminatory treatment earlier given Mr. Otepka. Mr. President, this is one of the most rotten cases which have come to light in recent times, and direct congressional intervention by legislation, if necessary, is overdue.

Mr. President, I ask unanimous consent that a newspaper article from the April 5, 1964, issue of the Minneapolis Sunday Tribune entitled "Security Aid Otepka is Still Harassed After Senate Disclosure," and an article from the April 8, 1964, *Des Moines Register*, entitled "Two Protest 'Demotions' for Backing Otepka on Security Regulations," both written by Mr. Clark Mollenhoff, be printed in the body of the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Minneapolis (Minn.) Sunday Tribune, Apr. 5, 1964]

#### SECURITY AIDE OTEPKA IS STILL HARASSED AFTER SENATE DISCLOSURE (By Clark Mollenhoff)

WASHINGTON, D.C.—It has been a lonely year for Otto F. Otepka, the State Department security evaluator who made the mistake of telling the truth and then proving one of his superiors was a liar.

It has been an unbelievable year of harassment for the 48-year-old career Government lawyer who made the difficult decision to testify truthfully about laxity and mismanagement in the State Department security program.

His telephone has been tapped, his room has been bugged, he has been put under tight surveillance, and top level officials—Secretary of State Dean Rusk and Deputy Undersecretary of State William Crockett—have been trying to fire him.

Otepka has been ostracized from the State Department social life. Six men who did continue to associate with him have found themselves suddenly transferred out of the Department's Security Division, and their clearance to handle security matters has been arbitrarily removed.

For more than 4 months, high State Department officials have been assuring Senator THOMAS DODD, Democrat, of Connecticut, that they have nothing against Otepka and that momentarily they will drop the efforts to fire him and let him return to his duties.

But over the whole period nothing of substance has happened to give Dodd or Otepka much confidence that a serious effort is being made to restore him to the duties from which he was suspended.

The technical charge against Otepka is that he was guilty of "insubordination" because he furnished the Senate Internal Security subcommittee, of which Dodd is vice chairman, three personnel file papers and cooperated by suggesting some questions committee counsel Jay Sourwine should ask some of Otepka's superiors in the State Department.

Dodd has said that Otepka furnished the papers to prove he had told the truth when he said he had given certain information on a security case to his superiors.

Otepka has not denied that he suggested a list of questions.

When Otepka's superiors found the Senate

subcommittee had knowledge of documents proving untruthful testimony under oath, it touched off the whole series of drastic efforts to spy on Otepka and find a reason to fire him.

Initially Otepka had a choice, because originally the drive against him was largely to move him out of the way in the Security Division. He was offered a usually coveted appointment to the War College.

But Otepka, a career employee for 25 years, had been in the State Department Security Division for more than 10 years. He wanted to stay there. He believed the work was important and even vital to the Nation. In 1958, Secretary of State John Foster Dulles awarded Otepka the Department's distinguished service award for his outstanding work.

It was in March 1963 that three of Otepka's superiors—John F. Reilly, David Bellisle and Elmer D. Hill—had their first discussions of the possibility of putting a listening device on Otepka's telephone. Later, Assistant Secretary of State Reilly and Hill, an electronics expert, arranged the first tampering with Otepka's office telephone.

More than a dozen conversations were recorded and passed by Hill to some still unidentified superiors in the State Department.

On June 27, 1963, six security officers walked into Otepka's office, seized his records, and the contents of his safe. He was summarily ordered to move to another office.

In July and August, Reilly, Bellisle, and Hill were called before the Internal Security Subcommittee, and under oath each denied any knowledge that there had been any wiretap or listening device of any kind attached to Otepka's telephone.

In September, Reilly served notice of charges of insubordination against Otepka for having cooperated with the Internal Security Subcommittee by producing documents for the committee and helping Sourwine with the questions.

In October, Dodd and Sourwine obtained final conclusive evidence that Reilly, Bellisle, and Hill had knowledge of the effort to place a listening device in Otepka's telephone. Taking note of their denials under oath, Dodd went on the Senate floor and warned of the possibility of perjury involving these high-level State Department employees.

Instead of a vigorous State Department investigation of the perjury charge, the State Department legal office met with Reilly, Bellisle and Hill to arrange letters to be sent to the Senate Internal Security Subcommittee to explain the untruthful testimony denying that Otepka's telephone was tapped.

The letters of Reilly and Hill admitted that they had taken an active part in arranging for the listening devices for Otepka's telephone, and had been present when the listening devices were removed. They insisted they had misunderstood the questioning, and denied the use of listening devices because they believed that they were being asked if there had been recordings.

Bellisle admitted that he was told of the plans to put a listening device on Otepka's telephone, but stated he was out of the country when it took place.

In the face of these admissions by Reilly, Hill, and Bellisle, Rusk took no immediate action against these men. However, he and Deputy Under Secretary Crockett did push forward with the Reilly-initiated charges to fire Otepka for insubordination.

Later, Hill admitted that more than a dozen recordings were made from the listening device on Otepka's telephone. He also stated that Reilly was present when the wiretap was put on and taken off.

The proof of the untruthful statements in the letters by Hill and Reilly was impossible for the State Department to defend. Both were asked to resign.

<sup>35</sup> 132 N.L.R.B. 621 (1961).

<sup>36</sup> 133 N.L.R.B. 256 (1961).

<sup>37</sup> In fact, over the past 3 years 36,968 unfair labor practice charges were filed, an average of 12,323 per year. During this same period a total of 2,221 hearings were held by NLRB examiners. This is an average of 740 trials per year. See 27 N.L.R.B. Ann. Rep. 6-14 (1962).

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## CONGRESSIONAL RECORD — SENATE

April 10

[From the Des Moines (Iowa) Register,  
Apr. 8, 1964]

# TWO PROTEST DEMOTIONS FOR BACKING OTEPKA ON SECURITY REGULATIONS

(By Clark Mollenhoff)

WASHINGTON, D.C.—Two State Department security experts have filed petitions with the Civil Service Commission charging that they have been removed from security assignments because they have supported Chief Security Evaluator Otto Otepka.

They are Harry M. Hite and John R. Norpel, Jr., both former personnel security specialists in the State Department.

Norpel and Hite are two of the six men who were recently transferred from the Office of Security to posts as administrative officers in the Bureau of Inter-American Affairs.

## CLAIM DEMOTIONS

Both Hite and Norpel contend that the transfers constitute a "reduction in rank" within the meaning of the Civil Service Act. They contend that the State Department has taken the action because they sided with Otepka in opposing the relaxation of security procedures at the State Department, and because the State Department has tried to fire Otepka, they have been in sympathy with his cause.

## FBI AGENT

Norpel, a former FBI agent with 17 years of experience in the Federal Government, stated in his petition that high State Department officers had "falsely contrived evidence created solely to harm Mr. Otepka."

Hite is a lawyer and has been in Government service for more than 10 years.

Both contended in their petitions that they had direct knowledge of a plot to frame Otepka and then have him fired.

Both linked the efforts to fire Otepka to testimony he gave to a Senate committee that contradicted the testimony of John F. Reilly, who at that time was Deputy Assistant Secretary of State for security.

Hite stated that four of the persons reassigned to the Bureau of Inter-American Affairs on March 15 were members of a special group formed in May 1961, to conduct a special reexamination of all personnel security cases.

"All four persons had been selected by Mr. Otepka," Hite stated. "All have expressed their strong convictions concerning Mr. Otepka's innocence of wrongdoing with which he had been charged. The two other persons reassigned, though not members of the 1961 group, have staunchly supported Mr. Otepka in his present difficulties."

The appeals by Norpel and Hite were addressed to Stephen L. Elliott, Chief of the Appeal Examining Office, U.S. Civil Service Commission.

Hite and Norpel charged that the persons who have been given assignments in the Security Division are persons who are not supporters of Otepka.

They charged that the reassignments were made by David Belisle, one of three persons who were proven to have given untruthful testimony to the Senate Internal Security Subcommittee relative to wiretaps on Otepka's telephone.

## TWO OUSTED

The State Department forced the resignation of Reilly and Elmer D. Hill, an electronics expert, who had knowledge of the unauthorized placing of listening devices on Otepka's telephone.

Under oath, Belisle had denied knowledge of the use of the listening devices on Otepka's telephone. Later, he admitted he had been told of the listening devices prior to the denials under oath, but Secretary of State Dean Rusk has taken no action against him.

However, Rusk has continued to push the charges to fire Otepka for giving documents

to a congressional committee to prove he was truthful.

Hite stated that he had intended to appear as a friendly witness for Otepka at the hearings on the discharge.

"Messrs. Raymond Loughton, John R. Norpel, Billy N. Hughes, all of whom have also now been reassigned \* \* \* also intend to appear as friendly witnesses for Mr. Otepka," Hite stated.

## CARRIED TORCH

Both Hite and Norpel stated that they had been told that they "carried the torch" too long and too far for Otepka.

Both men declared that their transfers originated with Lelisle, and is "in reprisal for my honest dissent and because of my close association with, and defense of Mr. Otto F. Otepka."

## GENERAL OF THE ARMY DOUGLAS MACARTHUR

Mr. THURMOND. Mr. President, Mr. Herbert Hucks of the Berkeley Democrat at Moncks Corner, S.C., has paid a stirring tribute to the memory of General of the Army Douglas MacArthur. I have been impressed with these comments and feel that they should be made a part of the Record of this body. I, therefore, ask unanimous consent, Mr. President, that Mr. Hucks' editorial tribute to General MacArthur be printed in the Record.

I also ask unanimous consent, Mr. President, that a newsletter I have prepared for distribution on April 13, 1964, on the same subject be printed in the Record.

There being no objection, the editorial and newsletter were ordered to be printed in the Record, as follows:

[From the Moncks Corner (S.C.) Berkeley Democrat, Apr. 8, 1964]

## COMMENTS ON CURRENT AFFAIRS

(By Herbert Hucks)

When Gen. Douglas MacArthur died Sunday afternoon, this country lost one of its greatest military leaders of all time. A veteran of World War I, he distinguished himself in that conflict. Then came World War II and he was called on to lead the Allied forces, mostly American, in the bitter fighting against Japan in the Pacific. It was his planning which little by little drove the Japs from island to island until in the end they were forced back. The final fight, it appeared, was to be on the Jap mainland. Then we dropped the bomb on two of the larger Jap cities and the stage for the surrender was set. It was MacArthur who met Jap warlords on board a U.S. warship and laid down the terms of surrender. Later, he was sent to Japan to supervise the dismantling of the Jap military forces, and to lead the Japs back into a peaceful way of life. His success there was outstanding. Under his leadership, Japan forgot the bitterness and began to rebuild.

Then came the Korean war. Little by little the Communists from North Korea were driven back, eventually being forced to retreat almost to their own borders. MacArthur wanted to follow them to and over the Yalu River and to strike their army and air bases in Manchuria from the air. It was then that President Truman disagreed and dismissed General MacArthur as leader of the American forces and from his work in Japan. The old soldier came home and was met with a welcome seldom given a military leader. It had been his plan to end the war with complete victory, but Truman did not agree. When he got home, he was invited to address a joint session of the Senate and House of Representatives. No one who heard

that address can ever forget it. He told his story in a simple, earnest manner, showing no bitterness but also leaving no doubt of his disappointment and his fear of the future. Had he been permitted to drive on to complete victory, many believed with him, much of the trouble of the past few years might have been avoided. Fear that Russia might send in large forces (in addition to the air support she had given the North Koreans and the Chinese) was stronger than the will to win. And through the years we have had to keep large forces along the line dividing North and South Korea. Was MacArthur right, or Truman? No one can ever know. The soft line taken then by Truman seems to be the policy of today. We let Cuba fall into Khrushchev's hands, and now a prominent Senator says that this is no real danger to us. No danger to us? What if Castro, with the backing of the Russians, goes into and takes over one or more nations of South America? Will we sit quietly and let this happen? It appears that in our zeal to make friends with Khrushchev, we are preparing to go any distance to avoid his displeasure. We do not think that the American people have lost their will to win the cold war, but would prefer fighting, if necessary, to abject surrender to the forces which are set to destroy us. However, it could be that our leaders will continue their soft line until it is too late.

General MacArthur is gone. Would that we could raise up another like him and that those in high places would listen to his advice.

## SENATOR STROM THURMOND REPORTS TO THE PEOPLE

### PATRIOTISM, VALOR, AND VICTORY

All people everywhere who cherish freedom have lost a staunch friend and dedicated servant in the death of General of the Army Douglas MacArthur. He was one of the greatest and most courageous military leaders the world has ever known. He was even more than this, however. He was a shining symbol of patriotism and courage, and he was an uncompromising advocate of victory over the enemies of freedom. These are qualities which, unfortunately, are on the wane in the America for which General MacArthur devoted so many years of distinguished service.

The patriotism of General MacArthur needs no documentation. His record of service and his eloquent statements of loyalty to his country speak for themselves. His dedication to his country and the people he served ran deep because it was bottomed on a firm belief in God. Even though he was a genius in many respects, and was looked upon by many as being a demigod, he recognized that his blessings and his gifts of leadership came from still a higher and greater power.

Courage, which Winston Churchill has aptly described as "the first of all human qualities because it is the quality which guarantees all others," came naturally to General MacArthur. He demonstrated his valor on many battlefields, both as a junior officer and as a general officer. For these acts of gallantry, he was awarded a Congressional Medal of Honor, 20 other U.S. medals, and many more foreign decorations.

His greatest act of courage, however, demonstrated the exercise of moral rather than battlefield courage. MacArthur was convinced of the truism that "there can be no substitute for victory." He was also convinced that "there is only one way to win victories; attack, attack, attack." Thus, when the U.S. State Department, the United Nations, and the British insisted on seeking a stalemate with the Communists in Korea rather than victory, General MacArthur fought for his battle plans which would have given the free world a much-needed triumph